

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**ROBERT L. JONES**

**PLAINTIFF**

**V.**

**NO: 4:05cv272-P-B**

**GREENVILLE POLICE DEPARTMENT  
CHIEF, ET AL.**

**DEFENDANTS**

**REPORT AND RECOMMENDATION**

**UPON FURTHER REVIEW** of the file and record of this action, the Court finds the Complaint [doc. 1] was filed on December 12, 2005, and the *pro se* Plaintiff was granted leave to proceed *in forma pauperis* by Order [doc. 10] dated January 10, 2006.

By Order [doc. 22] dated August 18, 2006, Plaintiff was directed to supplement the Complaint with the last known addresses for Defendants Sgt. Graziosi, Officer Andrew Bankhead and Cpl. Doug Kersh. On September 13, 2006, Plaintiff filed a Response [doc. 24], wherein he provided the address for Defendant Bankhead but indicated he needed help from the Court in obtaining addresses for the remaining Defendants. By Order [doc. 27] dated October 10, 2006, the Court interpreted Plaintiff's Response as a motion for additional time to serve the remaining Defendants, and granted Plaintiff additional time until December 1, 2006, to supply the Clerk with address information for the said Defendants. It has been four months since entry of that Order, and Plaintiff has yet to provide addresses for service of process upon Defendants Graziosi and Kersh.

Rule 4(m) states in pertinent part:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court . . . shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified

time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service . . . .

FED.R.CIV.P. 4(m). In this case, Plaintiff has failed to provide address information for service of process upon Defendants Graziosi and Kersh within the time allowed by this Court, which time has been more than 120 days. Therefore, it is my recommendation that Defendants Graziosi and Kersh be dismissed from this action without prejudice pursuant to Rule 4(m).

The parties are referred to Local Rule 72.2(D) for the applicable procedure in the event any party desires to file objections to the findings and recommendations herein contained. The parties are warned that any such objections are required to be in writing and must be filed within ten days of this date. Failure to timely file written objections to the proposed findings, conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Respectfully submitted this, the 2nd day of April, 2007.

/s/ Eugene M. Bogen  
**UNITED STATES MAGISTRATE JUDGE**